

STATE PERSONNEL BOARD CALENDAR



SEPTEMBER 9, 2003

LOS ANGELES, CALIFORNIA

State of California

Memorandum

DATE: August 27, 2003

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD -- Appeals Division

SUBJECT: Notice and Agenda for the September 9, 2003, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on September 9, 2003, at the Los Angeles Airport Hilton, La Jolla B Room, 5711 West Century Boulevard, Los Angeles, California, the State Personnel Board will hold its regularly scheduled meeting.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the September 9, 2003, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, CA 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Notice and Agenda
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Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

CAROLE CHACKO
Secretariat's Office

Attachment

CALIFORNIA STATE PERSONNEL BOARD MEETING*
Los Angeles Airport Hilton
5711 West Century Boulevard
Los Angeles, California 90045-5631
(310) 410-6121 FAX (310) 410-6177

Public Session Location - La Jolla B
Closed Session Location - La Jolla B

FULL BOARD MEETING AGENDA**

SEPTEMBER 9, 2003

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9:00 - 9:30

1. ROLL CALL

2. REPORT OF THE EXECUTIVE OFFICER

Report of Walter Vaughn
Executive Officer
State Personnel Board

3. REPORT OF THE CHIEF COUNSEL

4. NEW BUSINESS

(Items may be raised by Board Members for
scheduling and discussion at future meet-
ings.)

* Sign Language Interpreter will be provided for Board Meeting
upon request - contact Secretariat at (916) 653-0429, or CALNET
453-0429, TDD (916) 654-2360.

** The Agenda for the Board can be obtained at the following
Internet address: <http://www.spb.ca.gov/calendar.htm>

5. REPORT ON LEGISLATION

9:30 - 10:00

6. **ORAL ARGUMENT**

Oral argument in the matter of **MICHAEL GATTI, CASE NO. 00-3636**. Appeal from six months suspension. Department of Parks and Recreation

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10:00 - 10:15

7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

10:15 - 10:45

8. **HEARING** - PUBLIC HEARING TO ADOPT PROPOSED AMENDMENT TO SECTION 50 IN TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS

The amended Section 50, entitled Merit Selection Manual, incorporates by reference the State Personnel Board's Merit Selection Manual: Policy and Procedures, dated September 2003. The September 2003 edition of the Merit Selection Manual: Policy and Procedures incorporates nine new sections with the existing March 2003 edition of the manual.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10:45 - 11:00

9. MERIT SELECTION MANUAL

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 11:00 - 11:30 10. **HEARING** - PUBLIC HEARING TO ADOPT PROPOSED STATE PERSONNEL BOARD POLICY ON RECRUITMENT AND OUTREACH AND ADOPT PROPOSED AMENDMENT TO SECTION 50 IN TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS
- The State Personnel Board's proposed policy on outreach and recruitment for civil service examination processes is specified in the proposed Section 3300 of the Merit selection Manual: Policy and Procedures, entitled Recruitment for Civil Service Examinations. The amended Section 50, entitled Merit Selection Manual, incorporates by reference the State Personnel Board's Merit Selection Manual: Policy and Procedures, dated October 2003, which will integrate Section 3300 in the manual.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 11:30 - 12:00 11. OUTREACH/RECRUITMENT
- Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]
- 12:00 - 1:00 LUNCH

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 1:00 - 1:30 12. BRIEFING ON THE IMPACT OF PROPOSITION 54 ON STATE CIVIL SERVICE PROGRAMS

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 1:30 13. DELIBERATION ON ADVERSE ACTION, DISCRIMINATION COMPLAINT, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES
- Deliberations on matter submitted at prior hearing, on proposed decisions, petitions for rehearing, rejected decisions, remanded decisions, submitted decisions, and other matters related to cases heard by administrative law judges of the State

Personnel Board or by the Board itself.
[Government Code Sections 11126 (d), and
18653 (2).]

14. PENDING LITIGATION

Conference with legal counsel to confer with
and receive advice regarding pending litigation
when discussion in open session would be
prejudicial. [Government Code Sections 11126
(e) (1), 18653.]

State Personnel Board (SPB) v. Department of
Personnel Administration (DPA)/
International Union of Operating Engineers
(IUOE) et al.

(Sacramento County Superior Court Case
No. 01CS00109)

Association of California State Attorneys
and Administrative Law Judges v.
DPA/California Department of Forestry
Employees Association (AKA) CDF Firefighters
Court of Appeal, Third District No. C034943
(Sacramento County Superior Court
No. 99CS00260)

SPB v. DPA/Department of Forestry & Fire
Protection et al; CDF Firefighters
Sacramento County Superior Court Case
No. 98CS03314
Court of Appeal Case No. C032633

IUOE v. SPB/Public Employee Relations Board
(PERB)
Unfair Practice Case No. SA-CE-1295-S

Connerly v. State Personnel Board

State Personnel Board v. Department of
Personnel Administration/California State
Employees Association (Post and Promote.)

IUOE (Lunsford) v. State of California,
et al.

15. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the
Legislature. [Government Code Section 18653.]

16. RECOMMENDATIONS TO THE GOVERNOR
Deliberations on recommendations to the
Governor. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

On Adjournment:

17. DISCUSSION OF COMING BOARD MEETING SCHEDULE
OF SEPTEMBER 23, 2003 IN SACRAMENTO,
CALIFORNIA

BOARD ACTIONS

18. STATE PERSONNEL BOARD SUMMARY MINUTES OF
JULY 22, AND AUGUST 5, 2003
19. ACTION ON SUBMITTED ITEMS
20. ADMINISTRATIVE LAW JUDGE CASES

REJECTED DECISIONS

AVERY CUNNINGHAM, CASE NO. 02-3346
Appeal from five-percent reduction in salary
for six months
Supervising Correctional Cook
Wasco - State Prison
Department of Corrections

BENJAMIN JOHNSON, CASE NO. 02-2700
Appeal from five-percent reduction in salary
for six months
Correctional Officer
Imperial - State Prison
Department of Corrections

REJECTED AND REMANDED DECISION

MARIA LEON, CASE NO. 02-4163
Appeal from dismissal
Employment Program Representative
Employment Development Department

PROPOSED DECISIONS

SAMUEL BRYANT, CASE NO. 00-4238
Appeal from dismissal
Youth Correctional Officer
California Youth Authority

WILLIAM ENCISCO, CASE NO. 02-4146
Appeal from fifteen workdays suspension
Health Education Consultant II
Department of Health Services

FREIDERICH GARST, CASE NO. 03-0853E
Appeal from denial of request for
Reasonable Accommodation
Associate Tax Auditor
Board of Equalization

ROBERT GREER, CASE NO. 02-3624
From dismissal
Medical Technical
Assistant
Calipatria State Prison
California Department of Corrections

RHONDA HANSEN, CASE NO. 02-0530R
Appeal from rejection
during probation
Staff Services Analyst
Department of Health
Services, Sacramento

GORDON HOLMES, CASE NO. 03-0426E
Appeal from discrimination
Associate Tax Auditor
Franchise Tax Board

MICHAEL B. HORNSBY, CASE NO. 01-4202E
Request to File Charges Appeal against
Ernie Trujillo, Ed Quam, and Toni Camasura
from their positions as District Manager,

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District Administrator, and Health
Facilities Evaluation Supervisor,
respectively
A Member of the Public
Department of Health Services, Sacramento

THEODORE HUGHING, CASE NO. 03-0354
Appeal from medical
termination/demotion/transfer
Food Service Supervisor
Department of Developmental Services

FERNANDO JIMENEZ, CASE NO. 03-1202
Appeal from constructive medical
termination
Youth Correctional Officer
Fred C. Nelles Correctional Facility,
Whittier
California Department of Youth Authority

MARGO J. KIRKLAND, CASE NO. 02-1636
Appeal from rejection during probation
Transportation
Engineering Technician
Department of
Transportation

DONALD KUNKEL, CASE NO. 02-4471E
Appeal from whistleblower retaliation
Caltrans Equipment Operator I
Department of Transportation

MELVIN MAH, CASE NO. 03-2004
Appeal from dismissal
Correctional Officer
San Quentin - State Prison
Department of Corrections

MARY NOGUCHI, CASE NO. 03-0171E
Appeal from denial of request for
reasonable accommodation
Telecommunications Technician
Department of General Services

JOHN L. RAMOS, CASE NO. 03-1264
Appeal From dismissal
Equipment Material Worker
Department of Transportation

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VINCE RENFROW, CASE NO. 02-4377
Appeal Dismissal
Correctional Officer
San Quentin State Prison
California Department of Corrections

SILVIA SALAZAR, CASE NO. 03-1433
Appeal from reduction in salary
Licensing and Registration Examiner
Department of Motor Vehicles

RUBEN SANDOVAL, CASE NO. 03-1429
Appeal from Official Letter of Reprimand
Correctional Officer
Avenal State Prison
Department of Corrections

HAROLD K. SIKES, CASE NO'S.
03-0206 & 03-0686
Appeal from suspension for one day and
dismissal
Security Guard
22nd District Agricultural Association,
Del Mar

PAM WATERS, CASE NO. 02-3313
Appeal from demotion
Correctional Officer
California Rehabilitation Center - Norco
Department of Corrections

CHARLES YOUNGLOVE, CASE NO. 00-2080
Appeal from dismissal
Associate Insurance
Examiner
Department of Insurance

STIPULATIONS FOR SETTLEMENT

ARLENE RUTHERFORD, CASE NO. 03-0524
Appeal from dismissal
Chief Executive Assignment Appointment
Department of Financial Institutions
at San Diego

21. RESOLUTION RE NOTICE OF GOVERNMENT CODE
SECTION 18671.1 EXTENSION

22. WITHHOLD APPEALS

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or would have been investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

ISAAC ACEVES, CASE NO. 02-3921
Classification: Correctional Officer
Department of Corrections

NICHOLAS ALVAREZ, CASE NO. 03-0158
Classification: Correctional Officer
Department of Corrections

RICHARD ARCE, CASE NO. 02-3920
Classification: Correctional Officer
Department of Corrections

KRISTEN D. ASHBY, CASE NO. 02-3926
Classification: Cadet, CHP
California Highway Patrol

TERESA AUTERY, CASE NO. 02-4352
Classification: Correctional Officer
Department of Corrections

ANGELO AUTRY, CASE NO. 02-3925
Classification: Correctional Officer
Department of Corrections

DEBORAH BAKER, CASE NO. 03-0162
Classification: Youth Correctional Officer
California Youth Authority

EDMOND BAKER, CASE NO. 02-4353
Classification: Correctional Officer
Department of Corrections

ESTEBAN BECERRA, CASE NO. 03-0616
Classification: Correctional Officer
Department of Corrections

JAMES BERA, CASE NO. 03-0590
Classification: Correctional Officer
Department of Corrections

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FRANK BESS, CASE NO. 03-0502
Classification: Youth Correctional Officer
California Youth Authority

ROY BUCHANAN, CASE NO. 03-0592
Classification: Youth Correctional
Counselor
California Youth Authority

LEAMON CALDWELL, CASE NO. 03-0163
Classification: Youth Correctional Officer
California Youth Authority

KELLY CARLISLE, CASE NO. 02-4354
Classification: Youth Correctional Officer
California Youth Authority

DAVID CUMMINGS, CASE NO. 02-4060
Classification: Correctional Officer
Department of Corrections

MATT DANFORTH, CASE NO. 02-4061
Classification: Correctional Officer
Department of Corrections

DOAN TRAN DOAN, CASE NO. 02-3929
Classification: Youth Correctional Officer
California Youth Authority

THEODORE DONALDSON, CASE NO. 02-3918
Classification: Correctional Officer
Department of Corrections

ALEJANDRO FLORES, CASE NO. 02-4066
Classification: Youth Correctional Officer
California Youth Authority

JOHN FRANEY, CASE NO. 03-0508
Classification: Correctional Officer
Department of Corrections

SHANNON HICKS, CASE NO. 02-4030
Classification: Correctional Officer
Department of Corrections

DOMINGO HUIPE, CASE NO. 02-4212
Classification: Correctional Officer
Department of Corrections

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TENIKA JOHNS, CASE NO. 02-3978
Classification: Correctional Officer
Department of Corrections

RANDALL JOHNSTON, CASE NO. 03-0125
Classification: Correctional Officer
Department of Corrections

CHRISTOPHER KENDRICK, CASE NO. 03-0084
Classification: Correctional Officer
Department of Corrections

PAMELA KNIGHT, CASE NO. 02-3610
Classification: Medical Technical
Assistant - (CF)
Department of Corrections

NATHANIEL KOLDA, CASE NO. 02-3697
Classification: Correctional Officer
Department of Corrections

VICTORIA LINARES, CASE NO. 03-0077
Classification: Correctional Officer
Department of Corrections

ANTONIO LOCKETT, CASE NO. 02-3828
Classification: Correctional Officer
Department of Corrections

KATRINA LLOYD-HOLLY, CASE NO. 02-4159
Classification: Cadet, CHP
California Highway Patrol

IGNACIO MENDOZA, CASE NO. 03-0422
Classification: Correctional Officer
Department of Corrections

LESLIE MERSHON, CASE NO. 02-4344
Classification: Correctional Officer
Department of Corrections

PATRICIA MORENO, CASE NO. 02-3870
Classification: Correctional Officer
Department of Corrections

MICHELLE MURRAY, CASE NO. 02-4178
Classification: Youth Correctional Officer
California Youth Authority

CHRISTOPHER NALLS, CASE NO. 02-4370
Classification: Youth Correctional
Counselor
California Youth Authority

ROBERT OXFORD, CASE NO. 02-3388
Classification: Correctional Officer
Department of Corrections

MICHAEL RAMIREZ, CASE NO. 02-4129
Classification: Correctional Officer
Department of Corrections

DANIEL SANCHEZ, CASE NO. 02-3603
Classification: Correctional Officer
Department of Corrections

DENNIS SCHUBER, CASE NO. 02-3861
Classification: Youth Correctional Officer
California Youth Authority

MATTHEW STARKLOFF, CASE NO. 02-4127
Classification: Correctional Officer
Department of Corrections

ANGELA STATT, CASE NO. 02-4417
Classification: Correctional Officer
Department of Corrections

RACHEL WALL, CASE NO. 02-4130
Classification: Correctional Officer
Department of Corrections

TIMOTHY WOKEE, CASE NO. 02-3873
Classification: Correctional Officer
Department of Corrections

23. MEDICAL APPEALS

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

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MANUAL BALTAZAR, CASE NO. 02-4054
Classification: Correctional Officer
Department of Corrections

VICTOR BALVANDEA, CASE NO. 02-3678
Classification: Correctional Officer
Department of Corrections

SCOTT EVANS, CASE NO. 03-0642
Classification: Cadet, CHP
California Highway Patrol

JESSE GUILLEN, CASE NO. 02-2533
Classification: Youth Correctional Officer
California Youth Authority

MICHAEL JAMES, CASE NO. 03-0729
Classification: Cadet, CHP
California Highway Patrol

ARTHUR KOPP, CASE NO. 03-0441
Classification: Correctional Officer
Department of Corrections

ANNETTE LECKLITER, CASE NO. 03-0600
Classification: Correctional Officer
Department of Corrections

CLEMENTE MONTES, CASE NO. 03-0172
Classification: Correctional Officer
Department of Corrections

RAMON NAVARRE, CASE NO. 03-0078
Classification: Cadet, CHP
California Highway Patrol

MOLLIE REED, CASE NO. 02-1208
Classification: Public Safety
Dispatcher II, CHP
California Highway Patrol

ROBERT TAVARES, CASE NO. 03-1669
Classification: Correctional Officer
Department of Corrections

24. EXAMINATION APPEALS - NONE
MINIMUM QUALIFICATIONS - NONE
MERIT ISSUE COMPLAINTS
Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or would have been investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

(Merit Issue Complaint Appeal)

CHARLIE HARRIS, CASE NO. 02-2960
Classification: Park & Recreation
Specialist
Department of Parks & Recreation

25. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - NONE
RULE 211 APPEALS - NONE
Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

26. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES
Cases would have been investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(Request to File Charges)

JOHN CORRAL, CASE NO. 02-1030
Classification: Staff Services Analyst
Department of Corrections

EDWARD SOTELO, CASE NO. 02-2413
Classification: Staff Services Analyst
(General)
Department of Social Services

KIM THORPE, CASE NO. 02-3295
Classification: An employee of
Department of Transportation

(Petition for Rehearing Case)

LARRY MOORE, CASE NO. 03-0174P
Classification: Director, Television
Communications Center (Specialist)
Department of Transportation

27. PSYCHOLOGICAL SCREENING CASES - NONE
Cases would have been reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

28. NON-HEARING CALENDAR
The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code Section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and

organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

NONE PRESENTED

29. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE PRESENTED

30. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Personnel Resources and Innovation Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the

State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

- (1) INFORMATION SECURITY OFFICER
The Employment Development Department proposes to allocate the above position to the CEA category. The Information Security Officer will be the department's principle information security policy maker responsible for developing and implementing risk management and security policy, practices, processes, and procedures.
- (2) DEPUTY DIVISION CHIEF, FACILITIES DEVELOPMENT DIVISION
The Office of Statewide Health Planning and Development proposes to allocate the above position to the CEA category. The Deputy Division Chief, Facilities Development Division will develop and implement policies regarding procedures, practices and techniques for health facility construction; construction

inspection and testing; building design and materials; and code enforcement.

- (3) DISTRICT 6, DEPUTY DISTRICT DIRECTOR, PLANNING & LOCAL ASSISTANCE PROGRAMS
The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director, Planning & Local Assistance Programs will be responsible for the management, policy development and implementation related to the Planning and Local Assistance Programs for District 6 of the Department of Transportation.
- (4) CHIEF, EMERGENCY PREPAREDNESS OFFICE
The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Emergency Preparedness Office will develop statewide public health emergency disaster policies, procedures and standards in response to bio-terrorist/bio-hazardous actions.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

- (1) CHIEF DEPUTY EXECUTIVE OFFICER
The Victim Compensation and Government Claims Board request to establish the above position to the CEA category has been approved effective July 28, 2003.
- (2) BUREAU CHIEF, CRIMINAL INTELLIGENCE BUREAU
The Department of Justice request to establish the above position to

the CEA category has been approved effective August 1, 2003.

- (3) ASSISTANT EXECUTIVE OFFICER, BOARD OF PHARMACY

ASSISTANT EXECUTIVE OFFICER, BOARD OF REGISTERED NURSING

The Department of Consumer Affairs request to establish the above positions to the CEA category have been disapproved effective August 13, 2003.

- (4) CHIEF, BUREAU OF CRIMINAL STATISTICS AND FIELD OPERATIONS

The Department of Justice's request to establish the above position to the CEA category has been disapproved effective August 18, 2003.

- (5) COMMUNICATIONS DIRECTOR, PUBLIC AFFAIRS OFFICE

The Department of Conservation's request to establish the above position to the CEA category has been disapproved effective August 18, 2003.

31. WRITTEN STAFF REPORT FOR BOARD INFORMATION

ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE ON WHISTLEBLOWER RETALIATION
Government Code Section 19683(f) provides that, "In order for the Governor and the Legislature to determine the need to continue or modify state personnel procedures as they relate to the investigation of reprisals or retaliation for the disclosure of information by public employees, the Board, by June 30 of each year, shall submit a report to the Governor

and the Legislature regarding complaints filed, hearings held, and legal actions taken pursuant to this section." This report was prepared by the State Personnel

Board (Board) for the calendar year of
January 1, 2002 through December 31, 2002.

32. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

A D J O U R N M E N T

SUBMITTED

1. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).
2. TEACHER STATE HOSPITAL (SEVERLY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).
3. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).
4. ANSWERS OR APPEALS FILED WITH STATE PERSONNEL BOARD
State Personnel Board (SPB) staff is proposing to adopt new Rule 63 to require, in part, that answers or appeals filed with SPB, requesting that a hearing or investigation be conducted by SPB, notify the responding party of all planned affirmative defenses and requests for relief. (Hearing held February 3, 2003).
5. BARBARA LENOUE, CASE NO. 01-3441. Appeal from dismissal. Department of Developmental Services. (Oral argument held March 4, 2003).
6. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).
7. JOHN HUGHES, CASE NO. 01-4078. Appeal from ten-percent reduction in salary for 12 months. Department of Corrections. (Oral argument held April 8, 2003).
8. DEBORAH WHITE-SANBORN, CASE NO. 02-1155P. Appeal from dismissal. Department of Developmental Services. (Oral argument held May 6, 2003).

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9. RICHARD SINCLAIR, CASE NO. 01-3902. Appeal from 60-calendar day suspension. Department of Corrections. (Oral argument held May 6, 2003).
10. LAWRENCE SCHAEFER, CASE NO. 02-0079. Appeal from 60 calendar days suspension and position reassignment. HARRY MILLER, CASE NO. 02-0160. Appeal from demotion and position reassignment. Department of Corrections. (Hearing held June 3, 2003).
11. ADRIENNE HAAPALA, CASE NO. 01-0550E. Appeal from discrimination based on age and gender, and retaliation. Department of Corrections. (Oral argument held July 8, 2003).

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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CALIFORNIA STATE PERSONNEL BOARD

GRAY DAVIS, Governor

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov



(Cal. 9/9/03)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report. Please note that the bills that are listed as "Pending" in the Fiscal Committees are on the Suspense File. We expect that decisions on these bills will be made within the next week.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report or any other bills that you may have an interest in. I can be reached at (916) 653-0453.

Sherry Hicks
Director of Legislation

Attachment

**LEGISLATIVE REPORT #13
FOR
2003-2004 SESSION**

**Status as of:
August 21, 2003**

ASSEMBLY BILLS			ASSEM POLICY	ASSEM FISCAL	SENATE POLICY	SENATE FISCAL	ENROLLED	SIGNED	VETOED
BILL/ AUTHOR	BOARD POSITION	SUBJECT							
AB 25 Nunez	NEUTRAL	AB 25, with certain exceptions, require state agencies to accept as valid identification of a person, a photo identification card issued by another nation to its citizens or nationals	A	A	A	P			
AB 76 Corbett	SUPPORT	This bill would clarify and expand the legal protections of the Fair Employment and Housing Act (FEHA) by specifying that employers may be liable for harassment committed against their employees by non-employees, if the employer knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.							
AB 79 Dutra	NEUTRAL	AB 79 would suspend requirements for state departments and local agencies to prepare and submit various reports to the Legislature or the Governor until January 1, 2008.	A	A	P				
AB 159 Jerome Horton	NEUTRAL	AB 159 allows state employees who have been disciplined by their appointing powers to split their causes of action and have two separate trials; one before the State Personnel Board (SPB) and the second before an arbitrator or state or federal court to review discrimination cases that could have been, but were not released during the disciplinary appeal before SPB.	A	A	A	P			
AB 196 Leno	NEUTRAL	AB 196 would amend the Fair Employment and Housing Act (FEHA) to add "gender" to the list of classes protected by FEHA's anti-discrimination provisions by including gender as defined in the California Penal Code Section 422.76 in the FEHA definition of "sex". Gender is defined in the cited Penal Code section to include not only the individual's actual sex, but also his/her perceived sex based on identity, appearance or behavior.	A	A	A	A			
AB 268 Mullin	SUPPORT	AB 268 would amend the Government Code to add training in employment law relating to persons with disabilities as part of the current 80 hours of required training for new supervisors.	A	A	A	A	E		

AB 292 Yee	SUPPORT	AB 292 proposes to add language to fourteen different California Codes to prohibit the use of children as interpreters for any state or local government agency, or a public or private agency, organization, entity, or program that is supported by state funding.	A	A	A	P			
AB 318 Haynes	OPPOSE	AB 318 would require state entities to provide the Legislature with an annual financial activities report using certain baseline budget data to help with the budget process.	P	2- year bill					
AB 577 Horton	NEUTRAL	This bill would require the State Personnel Board (SPB) to adopt a regulation that would provide for blanket waivers (subject to standards determined by the Board), which would allow an employee who has been dismissed from State service to compete in any future State civil service examination; and would require providing dismissed employees with written notification explaining the effect of dismissal and the process by which a dismissed employee can compete in civil service examinations.	A	A	A	A			
AB 703 Dymally	NEUTRAL	AB 703 would define "racial discrimination" and "discrimination on the basis of race" as having the same meaning as the definition contained in the <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> for purposes of interpreting the provisions of Section 31 of Article I of the California Constitution. In doing this, the bill would allow special measures be taken for the "adequate advancement" of racial groups requiring protection.	A	A	A	A			
AB 1209 Nakano	NEUTRAL	AB 1209 would amend Government Code section 11126 to clarify and make permanent existing provisions that authorize state bodies to hold closed sessions to consider matter posing a threat of criminal or terrorist activity against state buildings or property.	A	A	A	A	P		
AB 1229 Simitian	NO POSITION	This bill would clarify state law prohibiting discrimination and harassment based on sex by providing that an employer who grants an employment opportunity or benefit to an employee who has submitted to that employer's sexual advances or requests for sexual favors, may be liable for sex discrimination against other qualified persons who were denied the employment opportunity or benefit.	A	A	A	P			
AB 1374 Daucher	SUPPORT	AB 1374 would authorize any State agency, subject to the approval by the Department of General Services, to enter into a contract to furnish services to, or perform work for, a local government agency.	P	2- year bill					

AB 1451 Wyland	SUPPORT	AB 1451 would provide that if by midnight of June 30, the Legislature fails to pass the Budget Bill for the ensuing fiscal year, amounts equal to one-sixth of the amounts appropriated by each of the items of appropriation in the budget Act for the current fiscal year be used to cover expenses.	P	2-year bill					
AB 1617 Montanez	NEUTRAL	AB 1617 would amend the Fair Employment and Housing Act (FEHA) to add criteria for evaluating whether an employer meets the current legal requirement to take "all reasonable steps" to prevent employment harassment based on protected group.	P	2-year bill					
AB 1669 Chu		AB 1669 revises the education requirements for physicians and psychologists who perform fitness for duty evaluations and pre-employment screening for peace officers.	A	A	A	A	P		
SENATE BILLS			SENATE POLICY	SENATE FISCAL	ASSEM POLICY	ASSEM FISCAL	ENROLLED	SIGNED	VETOED
BILL/ AUTHOR	BOARD POSITION	SUBJECT							
SCA 1 Burton	NEUTRAL	This bill proposes to amend the California Constitution as it relates to public meetings and access to documents.	A	A	A	P			
SB 69 Oller	NEUTRAL	SB 69, this bill would, among other things, require individuals who believe that public accommodations or public housings that do not meet the requirements for disability access to request voluntary changes before a lawsuit can be brought forth.	P	2-year bill					
SB 434 Escutia	SUPPORT	SB 434 provides that, at the request of a prosecuting attorney or the Attorney General, the head of every state department may assist in conducting investigations of matters unlawful activity under the department's jurisdiction. It also makes various changes to the manner in which such investigations are conducted and the scope of the investigating department's powers.	A	A	A	P			

TO: STATE PERSONNEL BOARD

FROM: SHELLEY LANGAN, Manager, Test Validation and Construction
KAREN COFFEE, Chief,
Merit Employment and Technical Resources Division

REVIEWED BY: LAURA M. AGUILERA
Assistant Executive Officer

REASON FOR HEARING:

A hearing has been scheduled to allow comments from interested parties on the proposed amendment to Section 50 of the California Code of Regulations (CCR). The amendment to Section 50, entitled *Merit Selection Manual*, incorporates by reference the State Personnel Board's *Merit Selection Manual: Policy and Practices*, dated September 2003.

SUMMARY OF ISSUES:

Article VII of the California Constitution provides for the oversight of the State's civil service system and enforcement of its civil service laws by the State Personnel Board (SPB). The SPB is further authorized to promulgate rules and regulations to ensure compliance with the civil service laws by State agencies and departments.

Currently, Section 50 of Title 2 of the California Code of Regulations incorporates by reference the State Personnel Board's *Merit Selection Manual: Policy and Practices*, dated March 2003. The *Merit Selection Manual* establishes policy and provides guidance to State agencies and departments engaged in testing and selection activities for the State's civil service. The *Merit Selection Manual* is intended to ensure that selection activities are conducted consistently among agencies and departments on the basis of merit and fitness, as called for in the State Constitution and applicable statutes in the Government Code. The *Merit Selection Manual* is a work-in-progress, and it is the SPB's intent to continue augmenting the *Merit Selection Manual* until such time as it fully incorporates the relevant rules and regulations pertaining to selection activities in the State's civil service.

The proposed amendment to Section 50 incorporates by reference the State Personnel Board's *Merit Selection Manual: Policy and Procedures*, dated September 2003, which will integrate nine new sections with the existing March 2003 edition of the *Merit Selection Manual*. These proposed new sections provide agencies and departments engaged in civil service examination activities specific policy direction and guidance related to ensuring and documenting the job-relatedness of examination processes. The methodologies presented represent professionally accepted principles of

assessment and employment testing, and the policy direction presented embodies recognized legally defensible testing practices.

The proposed new sections are the following:

Section 1300	Selection Program Standards
Section 2100	Validation Strategies
Section 2200	Job Analysis
Appendix C	Professional Organizations Listing
Appendix D	Summary of the <i>Uniform Guidelines on Employee Selection Procedures</i>
Appendix E	Summary of the <i>Principles for the Validation and Use of Employee Selection Procedures</i>
Appendix F	Summary of the <i>Standards for Educational and Psychological Testing</i>
Appendix G	Sample Validation Report
Appendix H	Sample Job Analysis Report

A copy of each of the proposed nine sections of the *Merit Selection Manual*, dated September 2003, is attached. Also attached is a revised Table of Contents for the proposed September 2003 edition of the *Merit Selection Manual* that lists all sections developed and incorporated as of the September 2003 date.

RECOMMENDATION:

It is recommended that the State Personnel Board adopt the attached amended Section 50 of Title 2 of the California Code of Regulations.

Attachments: Text of Proposed Regulation Amendment
Proposed Nine Sections (*as listed above*)
Table of Contents for Proposed September 2003 *Merit Selection Manual*

TO: STATE PERSONNEL BOARD

FROM: SHELLEY LANGAN, Manager, Test Validation and Construction
KAREN COFFEE, Chief
Merit Employment and Technical Resources Division

REVIEWED BY: LAURA M. AGUILERA
Assistant Executive Officer

REASON FOR HEARING:

A hearing has been scheduled to allow comments from interested parties on the adoption of the State Personnel Board's policy on Recruitment and Outreach. It is proposed that the policy be adopted through the integration of a new section in the State Personnel Board's *Merit Selection Manual: Policy and Practices*. The proposed new section, Section 3300, entitled Recruitment for Civil Service Examinations, specifies the State Personnel Board's policy on recruitment and outreach for the civil service examination processes conducted on open bases (meaning that applicants from within State Service and outside of State Service may compete, rather than promotional processes that restrict competition to existing State employees).

It is further proposed that Section 50, entitled *Merit Selection Manual*, in Title 2 of the California Code of Regulations be amended to incorporate by reference the *Merit Selection Manual: Policy and Practices*, dated October 2003, with the October 2003 edition integrating the proposed Section 3300, entitled Recruitment for Civil Service Examinations.

SUMMARY OF ISSUES:

Article VII of the California Constitution provides for the oversight of the State's civil service system and enforcement of its civil service laws by the State Personnel Board (SPB). The SPB is further authorized to promulgate rules and regulations to provide guidance to State agencies and departments.

Adoption of Section 3300 and the State Personnel Board's Policy on Recruitment and Outreach

The intent of issuing Section 3300 in the *Merit Selection Manual* is to establish State Personnel Board policy for broad and inclusive recruitment and outreach efforts for all civil service examinations conducted on open bases. Section 3300 provides the following:

- Guidance and interpretation of Senate Bill 1045 (Polanco) and resulting Government Code Section 11139.6

- A framework for agencies and departments to engage in inclusive recruitment and outreach efforts, effecting provisions of SB 1045 and Government Code §11139.6

The inclusion of Section 3300 in the Merit Selection Manual will ensure that all sectors of California's labor force are included in the State's recruitment and outreach activities and qualified candidates from California's diverse labor force have an opportunity to learn about and apply for civil service employment. Such efforts will serve to foster diversity in both the State's civil service examination processes and ultimately the State's workforce.

It should be noted that given the State's current fiscal situation, agencies and departments are conducting fewer open examinations; however, when department testing efforts resume in earnest, the provisions of Section 3300 will be applicable to such open testing efforts and will be in place to provide agencies and departments with needed guidance and policy direction. In addition, it is projected that over time due to the State's aging workforce and anticipated retirements in the workforce of most agencies and departments, agencies and departments will engage in increasing amounts of open testing. Of necessity, recruitment efforts and activities will thus play a much greater role in departmental testing activities.

Adoption of Amended Section 50 of Title 2 of the California Code of Regulations

Section 50 of Title 2 of the California Code of Regulations incorporates by reference the State Personnel Board's *Merit Selection Manual: Policy and Practices*, which establishes policy and provides guidance to State agencies and departments engaged in testing and selection activities for the State's civil service. The *Merit Selection Manual* is intended to ensure that testing and selection activities are conducted consistently among agencies and departments on the basis of merit and fitness, as called for in the State Constitution and applicable statutes in the Government Code. Recruitment and outreach activities are integral efforts for every examination process conducted; therefore, their inclusion in the *Merit Selection Manual* is essential to ensure that the *Merit Selection Manual* appropriately addresses the broad scope of employment testing conducted within the State.

The proposed amendment to Section 50 incorporates by reference the State Personnel Board's *Merit Selection Manual: Policy and Procedures*, dated October 2003. The October 2003 edition of the *Merit Selection Manual* will integrate Section 3300, entitled Recruitment of Civil Service Examinations, with the existing edition of the *Merit Selection Manual*.

A copy of the proposed Section 3300, dated October 2003, and the proposed amended Rule 50 are attached.

RECOMMENDATION:

It is recommended that the State Personnel Board adopt the State Personnel Board's policy stipulating broad and inclusive recruitment and outreach for civil service examination processes, as presented in the proposed Section 3300 of the *Merit Selection Manual: Policy and Procedures*, via the attached amended Section 50 of Title 2 of the California Code of Regulations.

Attachments: Text of Proposed Section 3300, dated October 2003
Text of Proposed Regulation Amendment

**ATTACHMENTS FOR THE HEARING
ITEMS ARE AVAILABLE ON THE STATE
PERSONNEL BOARD WEBSITE AT:
www.spb.ca.gov/spblaw/pinkiesrd.cfm**

**THEY ARE ALSO AVAILABLE UPON
REQUEST BY CONTACTING THE
SECRETARIAT OFFICE AT:
(916) 653-0429 OR TDD (916) 654-2360**